

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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IN THE MATTER	)	
	)	
Developing a Unified Intercarrier	)	CC Docket No. 01-92
Compensation Regime	)	

To: The Commission

**COMMENTS OF RONAN TELEPHONE COMPANY  
AND HOT SPRINGS TELEPHONE COMPANY**

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**COMMENTS**

Ronan Telephone Company (RTC) is a small, independent family owned Incumbent Local Exchange Carrier (ILEC) serving the rural communities of Ronan and Pablo on western Montana's Flathead Indian Reservation. Ronan Telephone serves approximately 3,000 households, businesses and government operations, including the headquarters of the Confederated Salish & Kootenai Tribes and the Salish Kootenai College. Hot Springs

Telephone Company (HSTC) is also a small, independent family owned ILEC, which serves approximately 800 customers in Hot Springs, Montana and the surrounding area, which is also located on the Flathead Indian Reservation.

RTC and HSTC respectfully offer the following comments strongly opposing the Commission's bill and keep proposals in this Docket:

**Theme and Synopsis of RTC Comments:**

Any business that is required by law to provide services to its competitors without compensation will be unwilling and, ultimately, unable to make investments to improve its services; in the long term, a business so burdened cannot survive. An intercarrier "bill and keep" system will be severely detrimental to the universal service goals of state and federal law, by its inevitable result of drastically increasing basic local rates.

Example: A hardware store owner has an investment in his store, including the building and all the necessary shelving, product displays, personnel and selling and accounting tools needed to offer hardware products to the public. If this hardware store owner is required to provide shelf space to a direct competitor on a "bill and keep" basis (i.e., no rent or other compensation paid by the competitor to the owner for the facilities used by the competitor) the owner cannot possibly compete with the competitor because the owner is responsible to pay the costs that allow the competitor to sell his products. And, the owner's other customers ultimately will have to pay the costs of the infrastructure, resulting in further subsidization of the competitor. Such a legal requirement will ultimately deprive the public of services, because the infrastructure needed by both will deteriorate as the incentive and ability of the owner to reinvest in that infrastructure has been eliminated.

These comments also request a clarification from the Commission that small rural carriers are

exempt from the Commission's symmetry reciprocal compensation rules. We also comment that the FCC lacks jurisdiction over intrastate access charges. Also, we maintain that a bill and keep system would not satisfy the Act or constitutional requirements if it were applied to unequal traffic flows, and unless the costs on each carrier's network were shown to be the same.

### **Symmetry Rule**

The Notice in this proceeding requests comments regarding the FCC's reciprocal compensation "symmetry rule" presumptions. (NPRM, ¶¶102-108, 118; 47 C.F.R. §51.713). RTC believes that the current rules need amendment, in order to conform to 47 U.S.C. §252(d)(2) (cost recovery, and compensation to terminate on each carrier's network), and to sound public policy and economic principles.

RTC has a pending request to the FCC staff requesting a clarification of the FCC reciprocal compensation symmetry rule (47 C.F.R. §51.711). This request was filed with the Commission on February 20, 2001; and RTC respectfully requests consideration of the issues therein in this proceeding (See, Letter attached hereto). RTC requests clarification that the symmetry rule does not apply to small rural carriers who hold the "251(f)(1) rural exemption" pursuant to the FCC's statements in Paragraph 1088 of the 1996 Local Competition "First Report and Order" (11 FCC Rcd. 15499). There are circumstances where it is patently unfair to apply the symmetry rule in its current form; for example, to require an ILEC to terminate calls to a large, sparsely populated rural area for the same rate as a CLEC charges to terminate calls to a few large business customers in the central business district of a small town. The state commissions should be given clear authority and flexibility to consider sound economics and policies in individual circumstances.

### **Bill and Keep Legal Authority and Traffic Balance**

The Notice in this proceeding also requests comments regarding the FCC's proposition that bill and keep satisfies the Act even when traffic is not in balance (NPRM, ¶75-77). RTC firmly believes that such a policy is blatantly inconsistent with the Telecommunications Act

(Sections 252(d)(1) and (2)), and probably an unconstitutional taking as applied in many circumstances. In particular, to satisfy legal scrutiny, such a bill and keep rule would have to be strictly limited by two requirements: 1) that the traffic between the networks would have to be equal or very close to equal; and 2) the costs to terminate traffic on each network would have to be proven to be equal (also, there should be consideration of a competitor's cream-skimming strategy, and the incumbent's ongoing responsibility to serve the costly outlying areas).<sup>1</sup>

Further, the FCC requests comments on whether it has the authority to require bill and keep for intrastate traffic (NPRM, ¶121 et.seq.). RTC joins, in what will undoubtedly be a plethora of co-commenters, in stating that the FCC would clearly lack any such authority to preempt state ratemaking jurisdiction. *See*, Telecommunications Act, Title VI, Sec. 601© (the Act does not impair, modify or supersede state law unless expressly so provided); 47 U.S.C. §152(b) and 201(a) (limiting FCC authority to interstate jurisdiction and leaving intrastate jurisdiction to the states); 47 U.S.C. §252(d) (Act's provisions referring exclusively to state commission authority) and *Louisiana PSC v. FCC*, 476 U.S. 355 (1986). RTC's legal counsel is not aware of any authority or reasonable argument for such an extension of FCC jurisdiction.

### **Policy Discussion:**

It has been recognized in the law and policy of this country for over 65 years that universal rural wireline telephone networks are a valuable infrastructure and provide a valuable service to society. The history and economic reality of utility services, whether it be electric power, telephone, natural gas, or cable television, illustrates that user density is the primary determinant of the level of system costs; e.g. lower density translates to higher costs per customer served. Prior to Roosevelt's New Deal, this reality meant rural people most often lacked electric power and telephone service. People living in the most rural settings generally do not have natural gas service or cable television service to this day for the same reason.

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<sup>1</sup> In an ongoing Montana PSC proceeding, the state commission ordered bill and keep without any showing of equal costs on each network, and despite clear evidence of an 80/20 traffic imbalance. RTC believes that this ruling will undoubtedly be reversed on appeal. (MT PSC Docket No. D2000.1.14)

The wiring of rural America for power and communication was the result a national policy decision to provide public support to augment private capital, to expand these services to the rural people of America. Rural America responded by using these tools to help make American agriculture one of the keystones of the post-war economy. Power and communications also facilitated a large amount of other economic industrial development in rural areas as well; our Agriculture and related rural industries is one reason the United States is the only world superpower today!

Our rural wireline telephone distribution system is the best in the world, and historically emerged and thrived as a result of: 1) private investment (often by small, community based companies); 2) publicly supported low interest debt (REA); and 3) the mandated sharing of Bell System long distance calling revenue with rural providers. Prior to 1983, rural telephone companies participated in a regulated partnership with the Bell System that divided long distance calling revenues in accordance with national settlement contracts approved by the FCC. After the divestiture of AT&T, carrier access charges assessed to all long distance carriers and the universal service funding replaced “toll settlements” as the primary funding mechanism for rural telephone infrastructure. Thus, although the system supporting rural universal service has been reformed and modified over the years, the basic structure has remained stable -- that is, the support for the rural wireline infrastructure and reasonable rural rates by means of charges to other carriers using the network.

In this proceeding, where the FCC is investigating “bill and keep” as a mandated mechanism for all intercarrier compensation, it is necessary to consider this long term historical perspective and recognize that the construction and maintenance of the rural wireline telecommunications infrastructure could not have been accomplished without “toll settlements” and the carrier access fees and universal service programs that succeeded them. It is also vital that the Commission realize that a universal bill and keep system is directly contrary to the provisions in the Telecommunications Act which mandate recovery of the costs incurred to provide service to other carriers, 47 U.S.C. §252(d)(2)(A) and 252(d)(1). Bill and keep is not required by the Act, and is only permitted in very limited circumstances, namely, where the

termination costs and the traffic volumes are balanced to result in no net losses to either carrier (See, 47 U.S.C. 252(d)(2); Cf. 47 C.F.R. §51.713).

A critical long term policy question must be considered in this proceeding: Can the rural wireline network infrastructure be maintained and enhanced in the long term if universal “bill and keep” interconnection is mandated? The following combination of circumstances would indicate the answer is “No”. These are: 1) the high costs of rural networks compared to subscribers served; 2) the generally low average income levels in most rural areas<sup>2</sup>; and 3) the likelihood that any increases in local service costs resulting from eliminating fees paid by carriers will not necessarily result in decreases in the costs paid by rural customers for long distance services (in the largely deregulated toll market). Ronan Telephone believes that the rural wireline network will deteriorate under these circumstances, and rural consumers will pay substantially higher local rates.<sup>3</sup>

It is instructive to recall that a very similar idea to “bill and keep” was considered and rejected just prior to the breakup of the Bell System in the early 1980's; when AT&T advocated, and the FCC seriously considered, a plan to drastically reduce or eliminate the contribution from long distance calling which supports the local wireline distribution infrastructure. Rural telephone companies took their message to Congress -- that huge increases in rural local telephone rates would result if support from long distance calling were eliminated. Under Congressional pressure, the Commission and the States instituted carrier access charges at an adequate level to sustain the operation of rural networks at affordable local rates, and provide the necessary incentives for investment in rural telecommunications infrastructure. Since 1983, the

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<sup>2</sup> This is particularly true in a rural Montana Indian Reservation community such as Ronan. The state of Montana has one of the lowest (if not the lowest) average per capita incomes in the nation, and the Indian reservations of Montana are among the poorest communities in Montana.

<sup>3</sup> RTC believes that the sparsest populated rural areas could experience local rates that would be five to ten times higher than current levels.

rural telephone industry has responded by providing digital switching and fiber optics in the rural telecommunications infrastructure, participated in the development of rural wireless telecommunications, introduced advanced services to rural consumers, and pioneered the rural internet.

In the policy debate in this proceeding, the Commission must consider the generally high quality of service provided by rural wireline telecommunications systems today, compared to the most probable state of rural service if the equivalent of bill and keep had been implemented in the mid-1980's. The Commission has identified certain problems in its Notice herein, but those problems do not justify completely abandoning the existing system, which has worked well for many decades to provide excellent rural telephone service throughout the country.<sup>4</sup>

Furthermore, the U.S. 10th Circuit Court of Appeals recently stated that nothing in the Telecommunications Act requires the complete replacement of the existing state approved access fees for intercarrier compensation by explicit federal subsidies.<sup>5</sup> The proposals in the FCC's Notice are certainly not required by the Act, and in many respects are directly contrary to the Act's provisions.

Independent wireline rural telephone companies usually derive 50% to 80% of their total revenues from carrier access charges and related universal service support programs. In the case of Ronan Telephone, this figure is approximately 67% (with approximately 10% of that derived from universal service funding). If carrier access charges had not been instituted, rural local service rates would have been dramatically higher (typically between four-fold to ten-fold higher), and many low income rural residents would have been priced off the network. Without these funds, the incentive and ability of rural carriers to upgrade to digital switching and data

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<sup>4</sup> RTC observes that many of the arbitrage problems identified by the Notice had their inception in policies established by the FCC, and which are therefore subject to revision by the FCC (e.g. the internet "ESP" access charge exemption and the vast "major trading area" definition for "local" wireless calls).

<sup>5</sup> "... we see nothing in §254 requiring the FCC broadly to replace implicit support previously provided by the states with explicit federal support." *Qwest v. FCC*, Cause No. 99-9546 et seq. (10th Cir., July 31, 2001) (reversing in part and affirming in part FCC non-rural USF Order, FCC 99-304 "Ninth Order, Tenth Report and Order").

capable networks would not have existed. In short, rural telecommunications services would have deteriorated dramatically. Fortunately for America, this did not occur, and the rural telecommunications infrastructure is far superior now to what it was in the mid-1980's.

In this proceeding, the Commission must squarely recognize that if the progress in improving rural wireline telecommunications that has been achieved since the divestiture of AT&T, is to continue, and universal service preserved, incumbent rural LECs cannot be required to provide their services to competing carriers for free! A bill and keep system would apparently require the Incumbent LECs to provide free carriage through their switching and distribution facilities to their direct competitors, with all the ILECs costs paid directly by the ILEC end users.

In the case of Ronan Telephone, modern telephone and data services are provided on a low income Indian Reservation where average per capita income is approximately \$16,500 per year. Currently, basic telephone service in Ronan and Pablo can be purchased for under \$13.00 per month. However, because the local calling area only covers these two small communities (only 3,000 customers can be called on a local basis), the total actual average telephone bill, including the cost of long distance calling, is approximately \$60 per month. If the carrier access fees on this long distance calling were eliminated, as it would under a "bill and keep" regime, the \$13 per month local rate would have to be raised to recover revenue losses from carrier access. In Ronan's case, this would total approximately \$70 per month per line, which could result in a five-fold increase in local charges. However, the consumer's need to place toll calls would not change, and the rates for long distance in the rural unregulated toll market may not decrease, meaning the total average phone bill could rise from \$60 per month to \$130 per month. In this Indian reservation community, many current low income and fixed income residents who can afford a phone today, by paying \$13 per month and limiting long distance calling, would be priced out of basic phone service.<sup>6</sup> This scenario would constitute drastic rate shock in an economically depressed low income area, and would be wholly inconsistent with the national and state policy goals of preserving reasonably priced telephone service for all Americans.

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<sup>6</sup> Approximately 10% of RTC customers limit their telephone bill to less than \$30 per month by limiting long distance calling.



RTC is also alarmed by the FCC's actions regarding the definition of "local service" for wireless providers, when compared to the state's definition of local for wireline providers. The State of Montana has defined "local service" for wireline service as one or more grouped wireline exchanges that comprise a local community of interest. In the case of rural areas, this has usually translated into one or two wireline exchanges, and results in close to 200 wireline local calling areas in Montana (e.g. the Ronan and Pablo exchanges are a single calling area that comprise only a portion of Lake County, Montana, and only about 120 square miles). Calls outside these local wireline calling areas are toll calls, for which carrier access charges are assessed-- and which constitutes approximately 67% of RTC's total regulated revenues. However, the FCC definition of "local" for wireless providers is the "Spokane Major Trading Area"; which includes the entire state of Montana, eastern Washington, northeast Oregon, the panhandle of Idaho and northern Wyoming (See, 47 C.F.R. §51.701(b)(2)). This area is approximately 700 miles from east to west and 300 miles north to south (or approximately the same area as the combined states of Maryland, Virginia, West Virginia, Kentucky, Illinois, Indiana, Ohio and Pennsylvania). For example, under the FCC definition, a wireless call that is carried 650 miles between Gillette, Wyoming and Moses Lake, Washington is defined as a local call. This is the same as saying a call from Washington, D.C. to St. Louis is a "local call"-- a clearly ludicrous result. Thus, a large proportion of the wireline long distance traffic carried in the intermountain west, which today requires the payment of carrier access charges, could be displaced by wireless traffic, for which reciprocal compensation applies. For a small rural ILEC like Ronan Telephone, the threat of this dichotomy is simple and potentially devastating. Long distance toll calls generate carrier access revenues that support the provision of universal service; wireless traffic implies reciprocal compensation, which generates essentially no revenue. The FCC's proposal in this proceeding is to require both types of traffic to be carried for free, which demonstrates the disconnect between the thinking of economists and regulators inside the beltway, compared to the realities of operating a rural network in the hinterlands.

The arbitrage problems described in the Commission's Notice were created by previous policy decisions of the Commission itself. The exemption of internet traffic from access charges

was adopted by the FCC in 1983, as a way of promoting the growth of the internet industry.<sup>7</sup> And, the huge “local” calling areas for wireless traffic was a way of encouraging the growth of the wireless industry as well. These FCC decisions were efforts to promote urban competition through regulatory fiat and government preference, instead of reasoned policy-making based on the realities of costs, technology and economics in rural areas. Sound policy-making cannot be based on theoretical competitive considerations alone or on assumptions that make the regulators task less difficult. This is particularly true if the resulting policy serves as a disincentive for productive infrastructure investment. Such a situation will damage the long term integrity and service-providing capability of the network needed by rural customers. If the Commission adopts policies that make the regulators job easier (e.g., “bill and keep” does not require difficult judgments of the regulator) but ultimately removes the incentives to invest by ILEC carriers, the consumer will ultimately suffer from an infrastructure that cannot provide adequate service. The problems identified in the FCC Notice do not justify reversing decades of sound universal service policies, nor the imposition of a completely new regime that would inevitably result in the deterioration of the infrastructure and service quality levels that have been successfully nurtured for so long.

Ronan Telephone, under current ownership, has a four decade history of improving telephone service to the Flathead Indian Reservation. Over these 40 years, Ronan Telephone has rebuilt our switching and distribution systems three times, taking our community from 20-party per line service (with all calls connected by live operators) in 1960, to state of the art single party wireline voice and internet data services today. The latest round of improvements, undertaken during the decade of the 1990's (and which is approximately 85% complete) facilitated single-party service to the rural areas of this community that had been restricted to two parties per line from the mid 1970's to the end of the 1980's. In the process, all rural customers were served with a rebuilt switching and hybrid fiber/copper distribution network, that essentially eliminated long

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<sup>7</sup> See, “ESP Exemption”, MTS/WATS Market Structure Order, 97 FCC2d at 715 (1983), and ISP-Bound Traffic Order, FCC 01-131, ¶¶11 and 77-88 (April 27, 2001) (adopting bill and keep for new ISP-Bound traffic).

rural loops and the necessity of induction loading. These improvements now allow any of the rural subscribers to be able to utilize dial-up internet data services at the maximum speeds (approximately 40% of our customers use the internet today) and facilitates the provision of broadband data services throughout this rural area. In addition, during the 1990's, Ronan's local network experienced an 80% increase in the number of access lines served and traffic growth in excess of 3.5 times. These improvements required the investment of close to \$5 Million during the 1990's; which is twice the amount of RTC's total cumulative investment from 1960 to 1989. Carrier access charges have largely facilitated and funded these efforts.

The dramatic growth Ronan's local telephone system has experienced has resulted both from the underlying growth of the community (approximately 2% per year) and to the emergence of the Internet, which was unanticipated when Ronan's latest round of network improvements were planned in the early 1990's. The initiation and growth in the use of the Internet since 1995 has caused many Internet users to install a second telephone line in their homes. This unanticipated demand has caused the exhaustion of distribution facilities in some areas, even though the distribution was designed with double the capacity needed at the time. The capital requirements to meet this demand for expanded distribution infrastructure is a significant challenge since second lines used for Internet access generally are not used for long distance calling and hence do not generate significant carrier access charge revenues. Since local service rates today generate only about 30% of the overall revenue of the company, a long term problem of underfunded capital infrastructure is developing. This capital/revenue squeeze will be thrust into an immediate crisis if bill and keep replaces carrier access charges from interexchange carriers.

The application of the 1996 Telecommunications Act (and FCC implementing rulings) to emerging competition in the Ronan area has resulted in the perversion of economic realities and the jeopardization of universal service goals. Unlike many similar small rural telephone companies, Ronan Telephone has experienced very selective wireline competition from two neighboring incumbent telephone companies, CenturyTel and the Blackfoot Telephone Cooperative. However, only the largest institutional and industrial customers in the service area

(the five largest customers) have service options from these competitors to date. The overwhelming majority of telephone subscribers in this community still have no choice for local wireline service other than Ronan Telephone. If Ronan Telephone were to be displaced completely in servicing these largest customers, the lost revenues coupled with embedded costs would force Ronan to increase local telephone rates to the remaining subscribers by a drastic amount.

Ronan Telephone is also experiencing plenty of wireless service competition. This community is now served by two national cellular wireless carriers and one smaller sub-regional digital PCS wireless carrier.<sup>8</sup> Blackfoot Cooperative has also announced its intention and made efforts to initiate wireline competition for RTC's largest customers, using reciprocal compensation access. CenturyTel, the neighboring ILEC to the north, has also made competitive in-roads in the Ronan area for major wireline customers. This combination of competitive circumstances has led to a series of disputes with the Blackfoot Cooperative regarding interconnection, rate levels for traffic exchanged, and questions whether universal service support received by the Cooperative for its incumbent study areas are being used to fund competitive ventures outside the designated study areas (i.e., in Ronan and elsewhere in Western Montana).<sup>9</sup> Ronan Telephone is currently interconnected pursuant to Section 251(b)(5) with Blackfoot's PCS service, under an interim order from the Montana Public Service Commission

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<sup>8</sup> The PCS carrier is a wholly owned subsidiary of the Blackfoot Telephone Cooperative, one of the wireline competitors for Ronan Telephone's largest accounts.

<sup>9</sup> See 47 U.S.C. §254(e) and 254(k) and 47 C.F.R. §54.7.

mandating a “bill and keep” reciprocal compensation arrangement.<sup>10</sup> Ronan also has a complaint pending at the Montana Commission alleging misuse of federal USF funds by the Blackfoot Cooperative (MT PSC Docket No. D2000.5.63).

A third pending case also relates to wireless traffic. Nine Montana rural ILECs, including Ronan Telephone and the Blackfoot Cooperative and its ILEC subsidiary, Clark Fork Telecommunications, are pursuing a joint action against Qwest (formerly US West) for terminating traffic to the independents on interexchange Feature Group C connections (largely wireless cellphone traffic from the two cellular carriers operating in Montana) without compensating the independents for termination of these calls. Qwest terminates this wireless traffic to the independents under LATA-wide termination requirements and refuses to pay tariffed charges to the independents for services rendered. Thus, the smallest and most isolated of the independents such as Ronan Telephone, have no leverage to negotiate direct interconnection or reciprocal compensation arrangement with the cellular carriers that are the source of much of the disputed traffic. This case is currently being appealed by the nine independents to the Ninth U.S. Circuit Court of Appeals, after an adverse ruling to the independents by the Federal District Court in Montana.

Pending final rulings in these two cases, Ronan is being forced to provide free

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<sup>10</sup> “Bill and Keep” was ordered in spite of evidence presented by Ronan that the traffic was 80% terminated by Ronan and 20% terminated by Blackfoot, a ratio which is not “roughly balanced” by any reasonable interpretation, as required by 47 C.F.R. §51.713(b). In addition, the Montana Commission did not address whether this interim bill and keep arrangement would “provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier’s network of calls that originate on the network facilities of the other” as required in Section 252(d)(2)(A)(I) of the ‘96 Act. This interim arrangement is now approaching its first annual anniversary with a final decision on rate levels not likely soon because of the “electric power crisis” the Montana Commission is addressing. MT PSC Docket No. D2000.1.14

terminating services to both cellular wireless carriers (via Qwest LATA-wide termination service) and to a third wireless PCS carrier (via a Montana PSC ordered “bill and keep” 251(b)(5) interconnection). On the heels of these cases comes the FCC’s NPRM herein, proposing that all intercarrier interconnection be provided by the ILEC for free under a mandated and unified “bill and keep” system.

In a nutshell, Ronan Telephone comments on this proceeding from the perspective of a very small rural ILEC that has experienced conflict, uncertainty and very costly regulatory proceedings and litigation revolving around what is possibly a unique rural competitive situation.

The difficulties experienced by Ronan relate not to service quality rendered to customers (which are excellent); they are the direct result of the confusing and contradictory provisions of the 1996 Telecommunications Act and the often even more incomprehensible implementation policies of the Act by both federal and state regulators.

To date, Ronan Telephone can detect very little benefit for the vast majority of our wireline telephone customers in Ronan from this evolving competitive environment. RTC does, however, foresee many problems looming on the horizon. The primary concern is the whether high quality “Plain Old Telephone Service” (POTS) can be provided to the generally low income people in this community for a price they can afford, if RTC is forced by regulation to provide free service to the many carriers who utilize its local network to complete calls. To the average POTS customer in Ronan, the prospect of dramatically increasing local telephone rates with very little prospect that long distance rates would decrease proportionately, would appear to be an implicit subsidy imposed on the rural customer to support the various carriers who will benefit from “bill and keep” access to the local exchange facilities. This is in sharp contrast to the goals of the Act: to reduce implicit subsidies, and the specific requirements for the recovery of costs from carriers to utilized networks, *See*, 47 U.S.C. §254 and 252(d)(2).

In summary, RTC has experienced the following over the past three years:

- 1) Finding itself embroiled in a test case around the issues of rural competition, rural reciprocal compensation and rural exemptions. The costs of these cases have been high and have diverted resources toward defending the company’s

traditional revenue sources (which are vitally needed to provide reasonably priced services to customers), thus depleting capital that would have otherwise been more productively reinvested to satisfy demand growth for existing services and for the provision of new and advanced services (which is also a goal of the Act);

- 2) The experience of having the neighboring ILEC (the Blackfoot Cooperative) apparently be able to use extensive USF funding (which is legally required to fund only the ILEC's incumbent customers for basic services) with apparent impunity to support competitive CMRS and CLEC activities outside the ILEC's incumbent study areas (See, 47 C.F.R. §§54.7, 54.101, 54.201); Further, this same ILEC having tax preferences, and being exempt from state PSC regulation; in all creating a grossly unlevel competitive playing field.
- 3) RTC's experience with the Montana Commission being reluctant to address the potential abuse of USF support to fund competitive ventures by supported ILECs (for political or unbeknownst reasons);
- 4) RTC having to meet this competition targeted only at the incumbent's best institutional customers, thereby potentially leaving the incumbent and its remaining customers with the burden of maintaining the network available to serve all rural customers (the outlying and most costly to serve areas);
- 5) The neighboring ILEC then demanding and obtaining essentially free service from Ronan under Section 251(b)(5) to complete calls to the incumbent rural customers of Ronan Telephone; i.e. an interim "bill & keep" order, even though the current rule limits bill and keep to circumstances where traffic is "roughly balanced" and RTC demonstrated an 80%/20% traffic imbalance;
- 7) The ongoing "Access Reform" dockets at the FCC (the MAG plan)- which could reduce Ronan's total carrier access revenues by 30% to 45%; and finally,
- 8) This proceeding, the Federal Commission's apparent intention to replace carrier access charges with a "bill & keep" arrangement within 5 years. This would affect 70% of our current revenues and cause local telephone rates to skyrocket as

much as five times higher than today, and/or make our firm much more dependent on universal subsidy support funding.

In trying to understand the rationale behind this bill and keep proposal, Ronan and Hot Springs have several observations:

1. The Federal Commission and its staff of attorneys and economists, appear almost exclusively focused on the urban east coast, with little appreciation for the challenges of serving rural communities well, particularly rural communities in the inland west, south and midwest. National policy must instead encompass the needs of our entire country, including the smallest of companies and the most rural and disadvantaged areas.
2. All ILECs seem to be perceived by the federal regulatory authorities as the monopolistic enemy of true American free enterprise, whether they be the largest of public corporations serving tens of millions in urban settings (and engaged in mega-merger mania), or the smallest of firms serving a single rural small town such as Hot Springs, Montana, (attempting only to provide good service and remain independent and community based).
3. The local wireline network infrastructure is *presumed* to be a “fully provisioned network” that can withstand being used by competitors without compensation, and which can continue to provide service in spite of the disincentives for infrastructure investment that such policies create. This single small rural carrier cannot see the benefits to its community, its employees, its owners or to the society as a whole, from a policy that forces it to make its service a gift to its direct competitors, to the detriment of its local consumers. Such a policy will build a subsidized, economically inefficient and illogical competitive house of cards on an infrastructure foundation that will ultimately collapse under the weight of the give-away.



The combination of the event's RTC has experienced has had a chilling effect on our faith in the future and our desire to continue to invest with full knowledge of these policy initiatives. We do not believe that the low income customers we serve can afford to pay many times more than today for their basic telephone service, nor can they afford to suffer significantly decreased service quality. We strongly believe that both increased costs and decreased service quality will result if rural incumbent LECs are ordered to provide free service to all connecting carriers, as proposed in this proceeding. And, we do not believe that support mechanisms (such as federal or state universal service funds) will be adequate to preserve rural universal service in the absence of payment for services rendered from connecting carriers; nor, as a matter of policy or pursuant to the Act, should such subsidies serve as a substitute for reasonable compensation from carriers. Ronan and Hot Springs also submit that such support systems are prone to "gaming" by participants willing to stretch or blatantly break the rules. Law and policy are much easier to make than to enforce, and rules that prohibit abusive use of such support systems are no exception.

America has the finest telecommunications infrastructure on earth, built on a foundation of the universal wireline distribution of dial tone. The federal government now seems determined to pursue policies that will inevitably undermine this foundation. Even if the foundation does not crack in urban America (although we believe it eventually will), it will most certainly crumble in rural America! For the foregoing reasons, RTC and HSTC respectfully request that the Commission abandon its bill and keep proposals in this proceeding.

DATED: August 18, 2001

Respectfully,

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Comments of Ronan Telephone Co.  
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